

MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAY SERVICES

OPEN SOLICITATION

#9506020056

FOR

TREE MAINTENANCE AND EMERGENCY TREE SERVICES

VENDOR INFORMATION FORM

The County will enter into contract with all applicants who meet the pre-established minimum qualifications; who are determined to be responsible; and, and who submit the Mandatory Submissions acceptable to the County. The interested vendors must complete and return the Vendor Application Form and the Pre-Approved Form Contract, with attachments, signed by the vendor, as written (with no modifications). The Department of Transportation will review your application for completeness to determine if you meet the qualification. If approved, the County will execute the contract and return a fully executed contract to the Contractor. This Vendor Information Form; the Vendor Application Form; and, the Pre-Approved Form Contract with Attachment A - Mandatory Insurance Requirements; Attachment B - General Conditions of Contract Between County and Contractor; Attachment C - Minority-Owned Business Addendum, including its companion document entitled Minority, Female, Disabled Person Subcontractor Performance Plan; and, Attachment D - Wage Requirements for Services Contract Addendum, including its companion document entitled Wage Requirements Certification, constitute the entire Contract. Those applications, including attachments, that are incomplete, will be returned to the applicants. Those applicants that are found not qualified will be notified by the Department of Transportation. If you/your firm are determined to be qualified and is considered to be a responsible applicant, you/your firm will be awarded a contract. It is understood that although a contract is being executed as an indication that the Contractor meets the qualifications established for their service listed on the Rate Schedule, it is no guarantee that the Contractor will be assigned any work under the contract.

Questions related to this Open Solicitation should be directed to Mr. Brett Linkletter at (301) 840-2283 or email at [Brett Linkletter@montgomerycountymd.gov](mailto:Brett.Linkletter@montgomerycountymd.gov)

INTENT

The intent of this solicitation is to establish a list of qualified Contractors that agree to supply equipment, personnel and services at predetermined rates set by the County. Rates are established on a two (2) tier basis: 1) a Tree Maintenance Services Rate Schedule for a variety of described routine tree maintenance services; and, 2) an Emergency Tree Services Rate Schedule for equipment and personnel to be used for emergency operations. The vendors may submit a Vendor Application Form/Pre-approved Form Contract for any or all services.

An emergency operation is defined as a storm event or series of events in which the County determines additional resources are required to reestablish safe passage to the general public on County streets and roads.

The Contracts resulting from this Open Solicitation will not require the Contractors to reserve any equipment or personnel for the exclusive use of Montgomery County. The Contracts only provide for services, equipment and personnel at the rates set by the County, if a Contractor is available when the County notifies a Contractor of its needs.

All services provided under the terms of the Contracts will be provided on an "as needed" basis. There are no guaranteed minimum quantities for any service; nor does the County guarantee the Contractors that any equipment or personnel will be required during any storm event or for any routine maintenance event.

Inspection for compliance to the Scope of Work and acceptance of completed work for payment will be at the direction of the County's Contract Administrator or designee.

CONTRACTOR'S MINIMUM QUALIFICATIONS

To be eligible for Contract Award, the Contractor must meet the following qualifications:

- 1) Must have two years experience in each of the areas submitting the application for.
- 2) For tree removal; tree trimming; cabling and bracing; and, disease and insect control services, the contractor must have a staff member that is a current Licensed Tree Expert (LTE) with the State of Maryland Department of Natural Resources.
- 3) Meet all Federal, State and Local licensing requirements that may be necessary to perform work as specified in this Open Solicitation and the Contract resulting from this Open Solicitation.
- 4) If the Contractor chooses to apply for and perform the "Disease and insect control" work, then the Contractor must have a current Pesticide License issued by the State of Maryland, Department of Agriculture.
- 5) For Certified Arborist services, the Contractor's Arborist must be a Certified Arborist with the International Society of Arboriculture (ISA), be a current Licensed Tree Expert (LTE) with the State of Maryland Department of Natural Resources and have at least 3 years of experience diagnosing trees for insect, disease, abiotic and structural defects.

MANDATORY SUBMISSIONS

Each applicant **must submit** the following documents that are acceptable to the County, with its application:

- 1) Certificate(s) of Insurance(s) evidencing insurance coverage as required by this Open Solicitation (Attachment A).
- 2) Minority, Female, Disabled Program Person Subcontractor Performance Plan (Attachment C).
- 3) Wage Requirements Certification (Attachment D).
- 4) Copy of Certified Arborist Certification with the International Society of Arboriculture, if applicable.
- 5) Copy of the Licensed Tree Expert license with the State of Maryland Department of Natural Resources, if applicable.
- 6) Copy of Pesticide License issued by the State of Maryland, Department of Agriculture, if applicable.

PRE-APPROVED FORM CONTRACT
TREE MAINTENANCE AND EMERGENCY TREE SERVICES

Contract # _____

ARTICLE I. NOTIFICATION AND ASSIGNMENT DISTRIBUTION

Upon execution of contracts awarded under Open Solicitation #9506020056, the County will compile a list of Contractors with the services and equipment they offered to provide and were accepted to provide by the County. When services are needed, the County will contact the first contractor on the list that is under Contract with the County for the provision of those services (items) required by the County. The work assignments will be based upon the County's needs and the Contractor's equipment and personnel services available. All assignments will be on a rotating basis in the order the contracts are executed. Should a contractor not be available to undertake the services upon notification from the County, the County will assign the services to the next available contractor on the list for those services, and the list for future assignments will resume from that point. If the contractor that is next in the rotation does not have the services required by the County, the County will assign the services to the next available contractor that is able to supply those services. In this case, when the next assignment is available, the County will return to the skipped contractor. No contractor will be assigned another project until it has completed the previous assignment. Should there be an instant when all the contractors have been assigned work, and the contractor for the next work assignment has not completed its work, it will be skipped, and the rotation will resume from that point. The Contractor must not commence any services until a purchase order has been executed by the Office of Procurement, and a notice to proceed has been issued by the Using Department.

ARTICLE II. COMPENSATION

The Contractor will be compensated according to the actual services provided and at the rates for services performed as listed on the Rate Schedules as set forth on the Vendor Application Form. The cost of all services must not exceed the available appropriations as set forth on the Purchase Order issued to the Contractor by the County.

ARTICLE III. INVOICES

The County's payment terms are net thirty days following the County's receipt and acceptance of an invoice submitted by the Contractor in a form and format approved by the County. The Contractor must submit itemized statements within 30 days after the Contractor's completion of services during which the Contractor supplied equipment and personnel under this Contract. These invoices must be on company letterhead and contain such detailed information as required by the County to determine accuracy of the charges, including, but not limited to the Purchase Order Number and description of service provided with applicable rate. These invoices must be submitted to the Contract Administrator. All invoices must contain the following attestation:

"I hereby certify this invoice correct for all work performed and services rendered and that payment as indicated is due"
This attestation must be signed and dated by the Contractor.

ARTICLE IV. SERVICES CONTRACTS

Under County law, a solicitation for a Contractor to provide services is subject to the Montgomery County Code regarding compliance with certain wage requirements payable to the Contractor's employees. Additional information regarding the County's wage requirements is contained within this solicitation (see Attachment D entitled "Wage Requirements for Services Contracts Addendum to the General Conditions of Contract Between County and Contractor" and its companion document entitled "Wage Requirements Certification"). If the applicant fails to submit and complete the required material information on the Wage Requirement Certification form, its Vendor Application Form will be returned. Contractor must comply with the Wage Requirement Law (Section 11B-33A of the Montgomery County Code) during the term of this Contract.

ARTICLE V. MINORITY, FEMALE, DISABLED PERSON PROGRAM COMPLIANCE

Under County law, this solicitation is subject to the Montgomery County Code and the Montgomery County Procurement Regulations regarding participation in the Minority-Female-Disabled Person (MFD) procurement program. Further information regarding the County's MFD program is contained within this solicitation (see Attachment C entitled "Minority-Owned Business Addendum to the General Conditions of Contract Between County and Contractor" and its companion document entitled "Minority, Female, Disabled Person Subcontractor Performance Plan"). If the applicant fails to submit the Minority, Female, Disabled Person Subcontractor Performance Plan, its Vendor Application Form will be returned.

ARTICLE VI. CONTRACT TERM

The effective date of this Contract begins upon signature by the Director, Office of General Services, and ends on June 30, 2010. The period in which the Contractor must perform all work under the Contract begins upon the County's issuance of a Notice to proceed for each project. The Contractor must also perform all work in accordance with time periods stated in the Scope of Work.

ARTICLE VII. SUBCONTRACTING

The Contractor may utilize the services of specialty Subcontractors for those parts of the work which, under normal contracting practices, are performed by specialty Subcontractors. The Contractor must list all Subcontractors' names and qualifications on the Rate Schedule. A Subcontractor will not be allowed to perform any work without prior approval by the County. The Contractor is responsible to the County for the acts and omissions of his/her Subcontractors, and/or persons either directly or indirectly employed by them, as he/she is for the acts and omissions of persons directly employed by him/her. Nothing contained in the Contract will create any contractual relationship between any Subcontractor and the County.

ARTICLE VIII. MONTGOMERY COUNTY CODE AND PROCUREMENT REGULATIONS

The Montgomery County Code and the Montgomery County Procurement Regulations are applicable to this solicitation and any contract awarded pursuant to this solicitation.

ARTICLE IX. SOLICITATION PREPARATION EXPENSES

All costs incurred in the preparation and submission of the application will be borne by the applicant and shall not be incurred in anticipation of receiving reimbursement from the County.

ARTICLE X. NAME AND SIGNATURE REQUIREMENTS

The correct and full legal business name of the entity involved must be used on applications received and on contracts issued as a result of this solicitation. A trade name, i.e., a shortened or different name under which the firm does business, must not be used when the full legal name is different. Corporations must have names that comply with State law, which requires a suffix indicating the corporate status of that business (e.g., Inc., Incorporated, etc.). Trade names may be indicated by individuals or corporations with the individual or corporate name followed by "t/a" (trading as) or "d/b/a" (doing business as), respectively. The signature on the bid, contract, amendment, or related correspondence must conform to the following: All signatures must be made by an authorized officer, partner, manager, member, or employee. The signing of an application/contract is a representation by the person signing that the person signing is authorized to do so on behalf of the applicant or contractor.

No applications will be accepted unless submitted in ink or typewritten. Changes must be done legibly and initialed by the applicant making the changes.

ARTICLE XI. QUALIFICATIONS OF APPLICANTS

Applicants may be required to furnish satisfactory evidence that they are qualified and regularly engaged in performing the services on which they are submitting an application for, and in both cases maintain a regularly established place of business. An authorized representative of the County may visit any prospective Contractor's place of business to determine ability, capacity, reliability, financial stability and other factors necessary to perform the contract.

ARTICLE XII. PROPRIETARY & CONFIDENTIAL INFORMATION

This is to notify prospective applicants that the County has unlimited data rights regarding applications submitted in response to its solicitations. Unlimited data rights means that Montgomery County has the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, or perform publicly and display any information submitted by applicants in response to this solicitation issued by the County. However, information that is deemed to be confidential commercial or financial information as defined by the Maryland Information Act, State Government Article §10-617, will be exempted from disclosure if the applicant can show that release of such information would cause substantial competitive harm to the applicant.

It is the responsibility of the applicant to clearly identify each part of his/her application that it believes is confidential commercial or financial information by stamping the bottom right corner of each pertinent page with one inch bold face letters stating the words "confidential" or "proprietary". The applicant agrees with regard to any portion of the application that is not stamped as confidential or proprietary that it believes, and expressly permits the County to deem it not to be confidential or proprietary.

ARTICLE XIII. SCOPE OF SERVICES

Depending upon the work applied to be performed by the Contractor in the application submitted by the Contractor under Open Solicitation #9506020056 and upon the County's request for goods and services from the Contractor; the Contractor must perform the following services and provide the following goods as described below. The Contractor must not commence any services under its contract until a purchase order or blanket purchase order has been executed by the Office of Procurement, and a Notice to Proceed has been issued for that task order by the Department.

GROUP I – TREE MAINTENANCE SERVICES

SCOPE OF WORK

Upon request by the County, the Contractor must provide for various tree maintenance operations and/or removal of trees located on the publicly maintained rights-of-way, on other publicly-owned properties, or on private property specifically directed by the Contract Administrator or designee, within Montgomery County, Maryland. Work to be performed under the terms of this Contract includes but is not limited to: the removal of dead, dying or diseased trees; the correction of structural defects, crown cleaning, crown raising, crown thinning, and/or stump removal. The rate schedule in the Vendor Application Form titled "Group I – Tree Maintenance Services Rate Schedule" is applicable to the work performed as described in and under this Section.

The County's Requests for Services may consist of individual or multiple locations. While situations may arise where the Contractor is requested to service an individual location, it is the County's intent to provide the Contractor with listings of multiple locations.

PERFORMANCE TIME

A. Tree Removal

1. The Contractor will have a period of five (5) work days from the Notice to Proceed within which to complete the removal of an individual tree, weather permitting.
2. For multiple tree removals the Contractor will have five (5) work days plus an additional; one-half (1/2) work day for each tree up to 24" diameter; one (1) work day for each tree between 24" and 48" diameter; two (2) work days for each tree over 48" diameter; and, one-half (1/2) work day for each tree which has been topped below the electrical lines by the electrical utility. All time parameters assume weather permitting.

B. Tree Trimming

1. The Contractor will have a period of five (5) work days from the Notice to Proceed within which to complete the trimming of an individual tree.
2. For a listing of up to 50 trees, the Contractor will have a period of five (5) work days for the first tree plus one work day for each additional five trees up to a total of 50 trees.
3. For a listing of 50 and up to 100 trees to be trimmed, the Contractor will have a period of thirty (30) work days within which to complete the required work.
4. For listings of 100 or more trees to be trimmed, the Contractor will have an additional seven (7) work days for each additional 60 (or fraction thereof) trees within which to complete the required work.

C. Cabling and Bracing

Contractor will have a period of five (5) work days from the Notice to Proceed within which to complete the cabling and/or bracing of a tree.

D. Stump Removal

For trees which require stump removal, as directed by the Contract Administrator or designee, the Contractor will have a period of five (5) work days, weather permitting, from the completion of tree removal or a Notice to Proceed within which to complete the stump removal operation. For multiple stump removal projects the Contractor will have five (5) work days to start the list and then have an obligation to remove on average 25 stumps per five (5) work days weather permitting.

E. Extensions

If, in the sole determination of the Contract Administrator, there has been an undo delay in the completion of assigned work due to excessive bad weather conditions, additional time may be allowed for work to be completed.

LOCATIONS/NOTICE TO PROCEED

The specific address(es), streets or portions of streets for tree removals or other maintenance operation will be provided to the Contractor by the Contract Administrator, or designee, on an as needed basis.

NOISE REDUCTION REQUIREMENT

Except in emergencies, no power equipment is to be operated between the hours of 7:00 p.m. to 7:00 a.m., Monday through Friday or between 7:00 p.m. Friday to 9:00 a.m. on Saturday; nor later than 7:00 p.m. on Saturday. No work is to be done on Sundays.

CONTRACTOR RESPONSIBILITIES-APPLICABLE TO PRUNE & REMOVAL OPERATIONS

- A. The Contractor must furnish all equipment, fuel and qualified tree personnel necessary to perform all required tree maintenance operations within the time frames specified in this Contract.
- B. Based upon previous experience with contracts containing similar scope of work requirements, the County has found that the minimum each Contractor Crew must consist of and be equipped with is:
 1. A minimum of three qualified tree workers one of whom may be the crew supervisor.
 2. Hydraulic lift bucket capable of reaching a height of 55' as measured from the ground.
 3. A chip disposal truck of minimum ten (10) cubic yard capacity.
 4. Power saws and other appropriate tools and equipment necessary to perform the required work.

- C. The Contractor must be responsible for traffic control associated with all tree removal and maintenance operations.
- D. The Contractor must be responsible for all damages to public or private property resulting from any tree removal or maintenance operation.
- E. It is the Contractor's responsibility to arrange for the moving of vehicles that impede the performance of assigned work or which may be damaged during the performance of scheduled work.
- F. The Contractor is responsible for any damage to County and/or Private Property by his/her equipment or personnel due to careless and/or negligent operation by his/her personnel.

SAFETY

- A. Tree maintenance operations required by this Contract must only be performed by qualified tree workers, who through related training, on-the-job experience, or both, are familiar with the practices and hazards of arboriculture, and the equipment used in such operations.
- B. The above standard should not take precedence over arboricultural safe work practices. Operations must comply with applicable Occupational Safety and Health Administration (OSHA) standards, ANSI Z133.1-2006 as well as state and local regulations.

SPECIFICATIONS

A. General Guidelines

- 1. All terminology used, and standards referred to in, and operations performed under the terms of this Contract, are used and will be performed in accordance with the most recent version of the American National Standards Institute standards, ANSI A300 (Part 1)-2008, ANSI A300 (Part 2)-2004, ANSI A300 (Part 3)-2006, and ANSI Z133.1-2006.
- 2. The Contractor must remove and be responsible for the disposal of all brush and debris resulting from tree removal or other maintenance operation. No additional payment will be made for this service. Under certain circumstances as set forth by the County's Department of Environmental Protection, Division of Solid Waste Services, wood chips only may be dumped at the County's Transfer Station at no charge. In general, specific, identifiable trucks would have to be used and the Contractor would have to provide daily advance notice of intent to dump in order to dump at no charge. If the Contractor is interested in this option, the Contract Administrator will assist in making the dumping arrangements with the County's Division of Solid Waste Services.
- 3. The Contractor must not leave brush or debris on the right-of-way overnight. The Contractor must rake or brush the work site clean at the conclusion of the work day.
- 4. Any firewood or wood chips left for any resident are the sole responsibility of the Contractor. The Contractor must also get acceptance of the wood or chips in writing, on a form provided by the County, and submit it to the County promptly after the fact. Additionally, any wood or chips left must not cause the Contractor to enter upon private property without written permission.
- 5. All wood and brush infected with Dutch elm disease, or any other diseased wood identified by the County, must be removed from the site by the Contractor and must not be left for firewood or chips.

6. The Contractor must not perform work on private property, unless specifically directed by the Contract Administrator or designee, or solicit for work from private property owners during the hours in which the Contractor crew is performing services for the County.
7. The County will not pay compensation for travel to and from job sites.
8. Any question as to pruning practices or procedures, as well as contract productivity, will be resolved by the Contract Administrator or designee and the decision will be final.
9. During the performance of work assigned under the terms of the contract, the Contractor will be required to perform the appropriate pruning/removal activity to branches that are in proximity to or interfering with utility wires providing service to individual residences (house drops). The Contractor will not be required to work within the area adjacent to the utility line distribution system (between utility poles) as defined in the Maryland High Voltage Act.
10. No surcharges for fuel or any other items shall be charged to the County.

B. Tree Removal will consist of the removal of all the above ground portions of a tree.

1. Climbing spurs or hooks are allowed during tree removal operations.
2. The County will contact the appropriate electric utility to remove all portions of a tree which are likely to come into contact with their distribution system prior to scheduling removal of said tree with the Contractor. The Contractor may be required to remove the debris left by the utility company.
3. The trunk of trees being removed are to be cut as flush to the surrounding ground level as is practical so as to minimize potential tripping hazards and facilitate the grinding of the resulting tree stump. Where practical, stumps must be left no higher than 4" above the surrounding ground level.
4. The felling of trees for the purpose of removal is not permitted unless prior approval is granted by the Contract Administrator or designee.

C. Maintenance Pruning will consist of the removal of dead, dying, diseased, decaying, interfering, objectionable, obstructing, and weak branches. The removal of such described branches is to include those both on the main trunk and within the crown. Maintenance pruning must follow the most recent ANSI Z133.1 and A300 standards and include the following:

1. All cuts must be made as close as possible to the trunk or parent branch, without cutting into the branch collar or leaving a protruding stub. Bark at the end of all pruning cuts should remain firmly attached.
2. All branches too large to support with one hand must be pre-cut to avoid splitting or tearing of the bark. Where necessary, ropes or other equipment should be used to lower large branches or stubs to the ground.
3. Treatment of cuts and wounds with wound dressing or paints has not been shown to be effective in preventing or reducing decay, and is not generally recommended. If wounds are painted for cosmetic or other reasons, then materials non-toxic to the cambium layer must be used. Care must be taken to apply only a thin coating of the material and used only on the exposed wood. The County must approve any wound dressing or paint before application.
4. Old injuries and pruning cuts are to be inspected. Those not closing properly and where wound tissue growth is not already completely established should be bark traced if the bark appears loose or damaged. Such tracing should not penetrate the xylem (sapwood) and margins must be kept rounded.

5. Sharp tools must be used so that clean cuts will be made at all times.
6. Equipment that will damage the bark and cambium layer must not be used; for example, climbing hooks or spurs.
7. Unless directed otherwise by the Contract Administrator, or designee, trees susceptible to serious infectious diseases should not be pruned at the time of year during which the pathogens causing disease or the insect vector are active. Similarly if pruning wounds may attract harmful insects, pruning should be timed so as to avoid insect infestation. Where the danger of transmitting disease between trees is possible, tools are to be disinfected with alcohol before starting work on a new tree.
8. Remove the weaker or less desirable of crossed or rubbing branches. Such removal, if possible, should not leave large open spaces in the general outline of the tree.
9. Where practical all visible girdling roots must be treated by one of the following means:
 - a) Cut root at either visible end.
 - b) Sever the root in the center with a chisel and allow the growing tree to push the root away.
 - c) Remove section of root.
10. The presence of any disease condition, fungus fruit bodies, decayed trunk or branches, split crotches or branches, cracks or other structural weakness must be reported to the County's Contract Administrator, or designee, and who will recommend corrective measures to be taken by the Contractor.
11. Crown elevation on primary access roads must be at a height of fourteen (14) feet above the road surface where practical. For trees on secondary residential roads the height must be twelve (12) feet above the road surface where practical.
12. To preserve symmetry and the esthetic appearance of the tree when trimming for road clearance, under pruning of main branches to obtain proper clearance will be used where practical, rather than the removal of entire branches back to the trunk or parent branch. However if the limb cannot be cut back to a proper branch union that is at least one third the diameter of the limb being removed, the entire limb should be removed. Also no limb should be cut back to another limb that is at a 90 degree angle from the limb being removed.
13. Flowering ornamental, evergreen, and small trees not posing a hazard to road traffic must be elevated to an easy walking height over the sidewalk and curb, approximately eight (8) feet.
14. Trees and shrubs whose branches block the view of oncoming traffic must be trimmed back far enough to allow clear viewing of oncoming traffic.
15. All branches obstructing traffic control devices must be removed.
16. Trimming for obstruction clearance must allow for one year's normal growth for the species.
17. Branches blocking street lights should be cleared so as to allow the light to illuminate the street and sidewalk if present.
18. Suckers (water sprouts) must be removed from the main tree trunk.
19. Branches hanging over or near a structure must be cut back or removed entirely to allow for a minimum of six (6) feet of clearance between any part of the remaining branch and the structure.

D. **Crown Reduction Pruning** may be necessary where there has been significant crown dieback, prior incorrect pruning or severe storm damage. Crown reduction pruning is the reduction of top, sides, or individual limbs by the means of removal of the leader or longest portion of a limb to a lateral no less than one third of the total diameter of the original limb. In addition to the specifications listed under Maintenance Pruning the following apply:

1. Before a branch is cut back, the ratio of live wood in the branch to leaf surface area in the remaining branch should be carefully considered. The leaves must supply sufficient food to maintain the remaining branch as well as to supply the needs of other parts of the tree. Generally, not more than one-third the total leaf area should be removed at any one time.
2. All attempts should be made to prune the tree to a shape typical of the species. Remove branches in such a manner as to leave the foliage pattern evenly distributed. In general the top of the crown is to be higher than the sides to maintain a tree like form.
3. Just enough limbs will be removed to achieve the desired effect without admitting too much sunlight to the trunk of the tree or the top side of large branches.

E. **Young Tree Pruning** may be necessary for trees less than six (6) inches in diameter.

1. A central trunk or leader or well spaced multiple trunk or leaders (as appropriate for the species and specimen should be developed by removing competing leaders and removing, heading, or thinning laterals on vigorously growing branches that compete with the selected leader(s).
2. A strong scaffold branch structure should be developed by selecting the primary scaffold branches. To improve the scaffold structure, branches that are crossing, have included bark, or interfere with the scaffold branches should be removed. Scaffold branches should be properly spaced.
3. Large-growing branches with narrow angles of attachment must be removed from the trunk.
4. Lower branches must be pruned so as not to interfere with human activities where needed.

F. **Cabling and Bracing** - It may be necessary to install cabling and/or bracing devices in trees as directed by the Contract Administrator or designee.

1. All cabling and bracing operations must conform to ANSI Standard A300 (Part 3)-2006.
2. Payment for cabling and bracing services will be on a time and materials basis subject to verification of work performed. The hourly rate used will be the rate appearing on the Tree Maintenance Services Rate Schedule. Contractor's charges for materials must be based on established Catalog or List Price in effect when the material is furnished, less all applicable discounts and in no event will the price exceed the Contractor's sales price to its most favored customer for the same item in like quantity, or the current market price, whichever is lower.

G. **Wooded Area Pruning** - There are areas along County maintained rights-of-way which are naturally wooded. Unless otherwise directed by the Contract Administrator, or designee, these areas are to be treated as follows:

1. All branches extending out over the road surface and/or shoulder are to be cut back to a distance of not less than two (2) feet from the edge of the roadway up to the appropriate clearance height over the road surface.
2. All other required maintenance pruning operations will be performed only on those portions of the tree crowns which extend over the road surface and/or shoulder.

3. For trees within wooded areas which the Contractor is directed to provide maintenance pruning throughout the crown, the Contractor will be compensated at the appropriate unit rate from the Tree Maintenance Services Rate Schedule.

H. Stump Removal may be required at the time a tree is removed. Stump removal must be accomplished as follows:

1. Stumps are to be ground out to a minimum depth of six (6) inches below finish grade of the restored right-of-way; the 6" measurement does not include the soil crown left for settling purposes. Full depth grinding may be required by the Contract Administrator or designee where replacement trees are to be planted at the site. **Stumps which require full depth grinding may be invoiced at twice the applicable unit cost.**
2. All exposed surface roots extending from the stump are to be ground out until there are no longer any exposed roots visible.

Stumps which in the opinion of the Contract Administrator or designee have excessive surface roots which require grinding in order to restore surface grade may be invoiced at the unit price for the next larger size class. Stumps meeting the above condition larger than 60" diameter will be invoiced at \$200 over the 60" diameter unit price. The determination of excessive surface roots is made solely by the Contract Administrator or designee.

3. Stump chips are to be removed from the site by the Contractor and disposed of at the Contractor's expense. The Contractor is not be permitted to leave chip piles on the site overnight. Sufficient chips may be left in the excavated area to maintain a level grade until the backfilling operation is complete. Unless otherwise directed by the Contract Administrator or designee, all excavated areas must be backfilled graded and seeded or sodden within 48 hours of excavation. Any excavations left overnight must be barricaded to prevent access to the work area and the Contractor has the responsibility of and must post appropriate warning signs.
4. Any wood chips left for any resident are the sole responsibility of the Contractor. The Contractor must also get acceptance of the chips in writing, on a form provided by the County, and submit it to the County promptly after the fact. Additionally, any chips left must not cause the Contractor to enter upon private property without written permission.
5. Any open, excavated holes must be properly barricaded whenever the Contractor is not on the site so as to prevent accidental entry by the public.
6. The excavated area is to be filled with a suitable topsoil of good texture and free of debris, chips, or stones larger than one-half (1/2) inch diameter. The backfill topsoil is to be lightly tamped for compaction with a crown slope of one-half (1/2) inch per foot left to allow for settlement. All wood chips must be removed from the excavation prior to backfilling with topsoil.
7. The finished grade will be raked, fertilized and seeded in accordance with professional trade practices. Fertilizer will be a 10-6-4 formulation applied at a rate of 1/2 lb. fertilizer per 50 square feet of excavated area. Seed must be a lawn mixture of 40% Kentucky Bluegrass, 40% Creeping Red Fescue, and 20% Annual/Perennial Ryegrass (or equivalent mix) applied at a rate of 1/2 lb seed mix per 50 square feet excavated area. Should the Contractor prefer; certified sod may be substituted for seeding.
8. Any potential conflicts with utility wires either above or below ground are the responsibility of the Contractor to locate prior to excavation. Any utility line repairs and associated costs resulting from stump grinding are the responsibility of the Contractor.

9. Any damage done by the Contractor to lead walks, slate or flagstone, sprinkler systems or other improvements, on either private property or the public right-of-way, will be the Contractor's responsibility to repair or replace.
 10. Payments will be based upon the diameter of the stump at the final cut. The diameter is determined by the County to be the average of the longest diameter distance across the stump and the diameter taken along the right angle at the mid-point of the longest measurement. Payments are made on the unit cost of the appropriate class from the Tree Maintenance Services Rate Schedule.
- I. Disease and Insect Control** - As part of a comprehensive tree maintenance program, it may be necessary to provide insect and/or disease control to trees on the public right-of-way.
This service must be provided as follows:
1. The Contract Administrator or designee will inform the Contractor of the need for this service.
 2. The County and Contractor will discuss the appropriate method for addressing the situation including what materials are to be used, how they are to be applied, and the timeframe for application.
 3. Any pesticides applied to trees must be applied under the direction of a State of Maryland Certified Pesticide Applicator.
 4. Payment for disease and insect control services will be on a time and materials basis subject to verification of work performed. The hourly rate to be used must be the rate which appears on the Tree Maintenance Services Rate Schedule. Contractor's charges for materials will be based on established Catalog or List Price in effect when the material is furnished, less all applicable discounts and in no event will the price exceed the Contractor's sales price it's most favored customer the same item in like quantity, or the current market price, or lower.
- J. Arborist** - The Contractor's Arborist must be a Certified Arborist with the International Society of Arboriculture (ISA); be a Licensed Tree Expert (LTE) with the State of Maryland; and have at least 3 years of experience diagnosing trees for insect, disease, abiotic and structural defects.
- K. Traffic Control** - This activity is considered incidental to Tree Maintenance Operation and is included in the rate for the service undertaken. No additional compensation will be paid by the County to the Contractor for traffic control services.

GROUP II - EMERGENCY TREE SERVICES

Upon request by the County, the Contractor must provide emergency tree services as described in this Section. The rate sheet in the Vendor Application form titled "Group II – Emergency Tree Services Rate Schedule" is applicable to the work performed as described in and under this Section.

MOBILIZATION FOR EMERGENCY SERVICE

Upon notification, the Contractor will have two hours to mobilize personnel and equipment and report for work at the assignment locations specified by the County. The Contractor will be paid a mobilization fee equivalent to one hour for the applicable service.

If for any reason equipment and personnel cannot report during this two-hour window, the Contractor must notify the County Representative of such time delay.

FAILURE TO NOTIFY THE COUNTY REPRESENTATIVE OF A DELAYED ARRIVAL OR FAILURE TO ARRIVE AT AN ASSIGNED LOCATION WILL RESULT IN A PENALTY OF 150% OF THE OPERATING HOURLY RATE FOR EACH PIECE OF EQUIPMENT OR CREW THAT FAILS TO ARRIVE. THE PENALTY WILL BEGIN AT THE END OF THE TWO HOUR PERIOD AND CONTINUE FOR EACH HOUR OR PORTION THEREOF UNTIL THE COUNTY IS NOTIFIED OR THE END OF THE EMERGENCY. THE CONTRACTOR WILL BE BILLED FOR THESE CHARGES, OR IF ANY MONEY IS DUE THE CONTRACTOR THESE CHARGES WILL BE DEDUCTED FROM THE MONIES DUE.

REQUIREMENTS FOR EMERGENCY TREE SERVICE

All services supplied under the terms of the contract must be in full conformity with all Federal, State of Maryland and Montgomery County laws and regulations.

All equipment supplied must be in good working order. The equipment must be provided with sufficient lights to provide a high degree of illumination for the operator and the following:

- An "ADC" map book and working cell phone or other means of communication with the County supervisor.
- A kit which contains basic tools and supplies to facilitate minor repairs that can be made on the road with minimal lost of operating time. Examples of what should be included would be tape, spark plug for chain saws, gas can, fuses, flashlight, hammer, pliers, adjustable wrench, etc.

The County reserves the right to reject or terminate the use of any equipment that appears mechanically unsound, unsafe or is inadequate to perform the task assigned.

All equipment and/or crews must remain in service until released by the County Representative.

The operators must be proficient in operation of the type of equipment they are assigned. The County reserves the right to terminate and request the replacement of any operator deemed to be insufficiently skilled or operating in an unsafe manner. Any equipment that is in non-operational condition must be removed from service unless otherwise approved by the County. Crew Foremen and Supervisors must be proficient in English in order to communicate with County Employees.

Supervisor - Once ten (10) pieces of equipment are supplied, the Contractor must have supervisory personnel, equipped with two way radios and cell phones, in the field monitoring the operations of their equipment and personnel. An additional supervisor will be required for each additional ten (10) pieces or fraction thereof. The Contractor will be paid at the rate as shown on the Group II – Emergency Tree Services Rate Schedule for each supervisor. Upon reporting to the site the Contractor must provide name(s) and cell phone number(s) of supervisor(s) to the County. The Contract Administrator may waive this requirement.

Standby - To allow an equitable compensation; the use of a standby rate is appropriate when equipment and personnel have been asked to report to work, but are idle for reasons which are not the fault of the Contractor. The standby rates are shown on page 18, until the Contractor receives its assignment.

ARTICLE XIV. GENERAL CONDITIONS

The General Conditions of Contract Between County and Contractor ("General Conditions") (Attachment B) are incorporated by reference into and made a part of this Contract. The Mandatory Insurance Requirements set forth in (Attachment A) supersede the insurance requirements set forth in Paragraph 21 of the General Conditions.

ARTICLE XV. PRIORITY OF DOCUMENTS

The following documents are incorporated by reference into and made a part of this Contract and are listed in the following order of precedence in the event of a conflict in their terms:

1. This Contract Document;
2. The General Conditions of Contract Between County and Contractor (Attachment B) including the Mandatory Insurance Requirements (Attachment A); Minority-Owned Business Addendum to the General Conditions of Contract Between County and Contractor, and its companion document entitled Minority, Female, Disabled Person Subcontractor Performance Plan (Attachment C); and, the Wage Requirements for Services Contract Addendum to the General Conditions of Contract Between County and Contractor, and its companion document entitled Wage Requirements Certification (Attachment D);
3. The Vendor Application Form and attached Rate Schedules; and,
4. The Vendor Information Form.

Open Solicitation #9506020056
Tree Maintenance and Emergency Tree Services

VENDOR APPLICATION FORM

Montgomery County, Maryland through its Department of Transportation, Division of Highway Services, is seeking applications from applicants to Provide Tree Maintenance and Emergency Tree Services under Section 4.1.6 of the Montgomery County Procurement Regulations, COMCOR 11B.00.01 et seq., titled "Open Solicitation."

The requirements and rates for these services (if required by the County) are set forth in the attached Group I – Tree Maintenance Services Rate Schedule and Group II – Emergency Tree Services Rate Schedule. All interested applicants must apply by June 30, 2010, to be considered for contract award under this Open Solicitation.

Please supply the following information:

Contractor's Name: _____
(Print or Type)

Federal Taxpayer ID Number _____

Business Address: _____

City & State: _____ Zip: _____

Office Phone No. _____ Fax No. _____

Emergency Contact Person _____ Emergency Phone No. _____

Printed Name and Title of Person Authorized to Sign Application/Contract

Number of year's experience your company has provided the services offered: _____

Please provide References (at least three are requested to be submitted)

(1) NAME OF FIRM: _____
ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____
CONTACT PERSON: _____ PHONE: _____

(2) NAME OF FIRM: _____
ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____
CONTACT PERSON: _____ PHONE: _____

(3) NAME OF FIRM: _____
ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____
CONTACT PERSON: _____ PHONE: _____

Equipment List - Please provide a list of equipment that may be available for use during emergency and non-emergency operations, as defined in this Open Solicitation. The Division of Highway Services of the Department of Transportation will verify the usability of equipment contained in the vendor's equipment list prior to entering into a contract.

EQUIPMENT LIST

TYPE	MAKE	MODEL	YEAR	ACCESSORIES

If additional space is needed please attach list:

Application Form. Attach all of the Mandatory Submissions listed in the Vendor Information Form; sign the contract; and it return to:

Department of Transportation
Division of Highway Services
101 Orchard Ridge Drive, 2nd Floor
Gaithersburg, Maryland 20878
Attn: Brett Linkletter

GROUP I – TREE MAINTENANCE SERVICES RATE SCHEDULE

The vendor may submit this form for any or all services listed below.

MAINTENANCE SERVICES

RATE

By submission of this form, we are offering the following checked (XX) items:

(XX)

<input type="checkbox"/>	Remove trees up to less than 6" diameter	<u>\$ 105/ea</u>
<input type="checkbox"/>	Remove trees from 6" up to less than 12" diameter	<u>\$ 255/ea</u>
<input type="checkbox"/>	Remove trees from 12" up to less than 18" diameter	<u>\$ 760/ea</u>
<input type="checkbox"/>	Remove trees from 19" up to less than 24" diameter	<u>\$1,050/ea</u>
<input type="checkbox"/>	Remove trees from 24" up to less than 36" diameter	<u>\$1,785/ea</u>
<input type="checkbox"/>	Remove trees from 36" up to less than 48" diameter	<u>\$2,520/ea</u>
<input type="checkbox"/>	Remove trees from 48" up to less than 60" diameter	<u>\$3,360/ea</u>
<input type="checkbox"/>	Remove trees from 60" up to less than 72" diameter	<u>\$4,305/ea</u>
<input type="checkbox"/>	Remove trees from 72" diameter and above	<u>\$6,510/ea</u>

<input type="checkbox"/>	Trim trees up to 3" diameter	<u>\$ 53/ea</u>
<input type="checkbox"/>	Trim trees from 3" up to less than 6" diameter	<u>\$ 79/ea</u>
<input type="checkbox"/>	Trim trees from 6" up to less than 12" diameter	<u>\$ 105/ea</u>
<input type="checkbox"/>	Trim trees from 12" up to less than 18" diameter	<u>\$ 158/ea</u>
<input type="checkbox"/>	Trim trees from 18" up to less than 24" diameter	<u>\$ 210/ea</u>
<input type="checkbox"/>	Trim trees from 24" up to less than 30" diameter	<u>\$ 315/ea</u>
<input type="checkbox"/>	Trim trees from 30" up to less than 36" diameter	<u>\$ 420/ea</u>
<input type="checkbox"/>	Trim trees from 36" up to less than 42" diameter	<u>\$ 525/ea</u>
<input type="checkbox"/>	Trim trees from 42" up to less than 48" diameter	<u>\$ 630/ea</u>
<input type="checkbox"/>	Trim trees from 48" diameter and above	<u>\$ 735/ea</u>
<input type="checkbox"/>	Wooded area, trim as directed per linear foot	<u>\$3.15/foot</u>

<input type="checkbox"/>	Grind stumps up to less than 12" diameter	<u>\$ 79/ea</u>
<input type="checkbox"/>	Grind stumps 12" up to less than 24" diameter	<u>\$ 132/ea</u>
<input type="checkbox"/>	Grind stumps 24" up to less than 36" diameter	<u>\$ 184/ea</u>
<input type="checkbox"/>	Grind stumps 36" up to less than 48" diameter	<u>\$ 236/ea</u>
<input type="checkbox"/>	Grind stumps 48" up to less than 60" diameter	<u>\$ 289/ea</u>
<input type="checkbox"/>	Grind stumps 60" diameter and over	<u>\$ 400/ea*</u>

*will add \$200 for excessive roots

<input type="checkbox"/>	Log Loader/Claw Truck	<u>\$ 275/hour</u>
<input type="checkbox"/>	Certified Arborist	<u>\$ 55 /hour</u>
<input type="checkbox"/>	Cabling and bracing	<u>\$ 31.50/hour plus materials</u>
<input type="checkbox"/>	Disease and insect control**	<u>\$ 31.50/hour plus materials</u>

**requires a current pesticide license issued by the State of Maryland Department of Agriculture

SUBCONTRACTING

Will you be subcontracting out any of the services under this Group? ____ Yes ____ No

If yes, provide the name of the contractor and describe the work (items) assigned:

Subcontractor's Name: _____

Subcontractor's Address: _____

Work to be assigned: _____

EQUIPMENT LIST

Please provide a list of equipment that each of your subcontractor's will be using when providing services under this Group. The Division of Highway Services will verify the usability of equipment contained in the equipment list prior to entering into a contract.

<u>TYPE</u>	<u>MAKE</u>	<u>MODEL</u>	<u>YEAR</u>	<u>ACCESSORIES</u>
-------------	-------------	--------------	-------------	--------------------

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

If additional space is needed please attach list.

GROUP II - EMERGENCY TREE SERVICES RATE SCHEDULE

The vendor may submit this form for any or all services listed below.

CREW/EQUIPMENT**RATE**

By submission of this form, we are offering the following checked (XX) items:

<u>(XX)</u>	<u>EMERGENCY RATE</u>	<u>STAND-BY RATE</u>
<input type="checkbox"/> Four-man climbing crew and equipment	<u>\$ 315/hour</u>	<u>\$ 236.25/hour</u>
<input type="checkbox"/> Three-man climbing crew and equipment	<u>\$ 289/hour</u>	<u>\$ 216.75/hour</u>
<input type="checkbox"/> Three-man bucket crew and equipment	<u>\$ 263/hour</u>	<u>\$ 197.25/hour</u>
<input type="checkbox"/> Two-man bucket crew and equipment	<u>\$ 236/hour</u>	<u>\$ 177.00/hour</u>
<input type="checkbox"/> Three-man bucket crew certified for power line clearance	<u>\$ 273/hour</u>	<u>\$ 204.75/hour</u>
<input type="checkbox"/> Two-man bucket crew certified for power line clearance	<u>\$ 247/hour</u>	<u>\$ 185.25/hour</u>
<input type="checkbox"/> Two-man bucket crew and equipment with seventy-five foot (75') Hydraulic Lift Bucket	<u>\$ 263/hour</u>	<u>\$ 197.25/hour</u>
<input type="checkbox"/> Two-man chipping crew and equipment	<u>\$ 200/hour</u>	<u>\$ 150.00/hour</u>
<input type="checkbox"/> Three-man chipping crew and equipment	<u>\$ 221/hour</u>	<u>\$ 165.75/hour</u>
<input type="checkbox"/> Supervisor	<u>\$ 63/hour</u>	
<input type="checkbox"/> Traffic control flag person	<u>\$ 26/hour</u>	
<input type="checkbox"/> Small crane	<u>\$ 110/hour</u>	
<input type="checkbox"/> Medium crane	<u>\$ 152/hour</u>	
<input type="checkbox"/> Large crane	<u>\$ 189/hour</u>	

SUBCONTRACTING

Will you be subcontracting out any of the services under this Group? ____ Yes ____ No

If yes, provide the name of the contractor and describe the work (items) assigned:

Subcontractor's Name: _____

Subcontractor's Address: _____

Work to be assigned: _____

Please provide a list of equipment that each of your subcontractor's will be using when providing services under this Group. Division of Highway Services will verify the usability of equipment contained in the equipment list prior to entering into a contract.

EQUIPMENT LIST

<u>TYPE</u>	<u>MAKE</u>	<u>MODEL</u>	<u>YEAR</u>	<u>ACCESSORIES</u>
-------------	-------------	--------------	-------------	--------------------

_____	_____	_____	_____	_____
-------	-------	-------	-------	-------

_____	_____	_____	_____	_____
-------	-------	-------	-------	-------

If additional space is needed please attach list.

TREE MAINTENANCE AND EMERGENCY TREE SERVICES

This Contract, by and between _____ hereinafter referred to as "Contractor" and Montgomery County, Maryland, hereinafter referred to as "County", incorporates, by reference, the Vendor Information Form, the Vendor Application Form, including Rate Schedules, the Pre-Approved Contract Form, and the following Attachments, is entered into on the date of signature by the Director, Department of General Services.

Attachment A - Mandatory Insurance Requirements

Attachment B - General Conditions of Contract Between County and Contractor

Attachment C - Minority-Owned Business Addendum to the General Conditions of Contract Between County and Contractor and its companion document entitled Minority, Female, Disabled Person Subcontractor Performance Plan

Attachment D - Wage Requirements for Services Contracts Addendum to the General Conditions of Contract Between County and Contractor and its companion document entitled Wage Requirements Certification

Part A: Contractor's Acceptance

Part B: County's Acceptance

MONTGOMERY COUNTY, MARYLAND

Contractor's Name

David E. Dise, CPPO *Director
Department of General Services

Signature of Person Authorized to Sign

Date

Date

Typed Name of Person Authorized to Sign

RECOMMENDATION

R. Keith Compton, Chief
Division of Highway Services
Department of Transportation

Title of Person Authorized to Sign

Date

Date

**APPROVED AS TO FORM AND LEGALITY
OFFICE OF COUNTY ATTORNEY**

*The County Code, Chapter 11B-1, replaced the definition of Director (of Procurement) with Director of the Department of General Services.

ATTACHMENT A

MANDATORY INSURANCE REQUIREMENTS

Tree Maintenance and Emergency Tree Services

Prior to the execution of the contract by the County, the proposed awardee must obtain at their own cost and expense the following insurance with an insurance company/companies licensed to do business in the State of Maryland and acceptable to the Division of Risk Management. This insurance must be kept in full force and effect during the term of this contract, including all extensions. The insurance must be evidenced by a certificate of insurance, and if requested by the County, the proposed awardee/Contractor shall provide a copy of the insurance policies. The Contractor's insurance shall be primary.

Commercial General Liability

A minimum limit of liability of **one million dollars (\$1,000,000)**, combined single limit, for bodily injury and property damage coverage per occurrence including the following coverages:

- Contractual Liability
- Premises and Operations
- Independent Contractors
- Products and Completed Operations during and for two years following completion of the work.

Automobile Liability Coverage

A minimum limit of liability of **one million dollars (\$1,000,000)**, combined single limit, for bodily injury and property damage coverage per occurrence including the following:

- owned automobiles
- hired automobiles
- non-owned automobiles

Worker's Compensation/Employer's Liability

Meeting all statutory requirements of the State of Maryland Law and with the following minimum Employers' Liability limits:

- Bodily Injury by Accident - \$100,000 each accident**
- Bodily Injury by Disease - \$500,000 policy limits**
- Bodily Injury by Disease - \$100,000 each employee**

Additional Insured

Montgomery County, Maryland, its elected and appointed officials, officers, consultants, agents and employees must be named as an additional insured on Contractor's Commercial and Excess/Umbrella Insurance for liability arising out of contractor's products, goods and services provided under this contract.

Policy Cancellation

Forty-five (45) days written notice of cancellation or material change of any of the policies is required.

Certificate Holder

Montgomery County, Maryland
Department of Transportation / Highway Services
Attn: Brett Linkletter
101 Orchard Ridge Drive, 2nd floor
Gaithersburg, MD 20878

ATTACHMENT B

GENERAL CONDITIONS OF CONTRACT BETWEEN COUNTY & CONTRACTOR

1. ACCOUNTING SYSTEM AND AUDIT, ACCURATE INFORMATION

The contractor certifies that all information the contractor has provided or will provide to the County is true and correct and can be relied upon by the County in awarding, modifying, making payments, or taking any other action with respect to this contract including resolving claims and disputes. Any false or misleading information is a ground for the County to terminate this contract for cause and to pursue any other appropriate remedy. The contractor certifies that the contractor's accounting system conforms with generally accepted accounting principles, is sufficient to comply with the contract's budgetary and financial obligations, and is sufficient to produce reliable financial information.

The County may examine the contractor's and any first-tier subcontractor's records to determine and verify compliance with the contract and to resolve or decide any claim or dispute arising under this contract. The contractor and any first-tier subcontractor must grant the County access to these records at all reasonable times during the contract term and for 3 years after final payment. If the contract is supported to any extent with federal or state funds, the appropriate federal or state authorities may also examine these records. The contractor must include the preceding language of this paragraph in all first-tier subcontracts.

2. AMERICANS WITH DISABILITIES ACT

The contractor agrees to comply with the nondiscrimination requirements of Titles II and III, and other provisions, of the Americans with Disabilities Act of 1990, Pub. Law 101-336, as amended, currently found at 42 U.S.C., § 12101, et seq.

3. APPLICABLE LAWS

This contract must be construed in accordance with the laws and regulations of Maryland and Montgomery County. The Montgomery County Procurement Regulations are incorporated by reference into, and made a part of, this contract. In the case of any inconsistency between this contract and the Procurement Regulations, the Procurement Regulations govern. The contractor must, without additional cost to the County, pay any necessary fees and charges, obtain any necessary licenses and permits, and comply with applicable federal, state and local laws, codes and regulations. For purposes of litigation involving this contract, except for contract Disputes discussed in paragraph 8 below, exclusive venue and jurisdiction must be in the Circuit Court for Montgomery County, Maryland or in the District Court of Maryland for Montgomery County.

Furthermore, by signing, or performing work under, a contract for services or arising from a grant award to participate in a County-funded program, contractor expressly certifies and agrees that it will not expend County funds to assist, promote, deter, or otherwise influence union activity or organizing, and that it will comply with the requirements of Montgomery County Code, Section 11B-33B.

4. ASSIGNMENTS AND SUBCONTRACTS

The contractor may not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by the Director, Office of Procurement. Unless performance is separately and expressly waived in writing by THE DIRECTOR, OFFICE OF PROCUREMENT, an assignment does not release the contractor from responsibility for performance of this contract. Unless otherwise provided in the contract, the contractor may not contract with any other party for furnishing any of the materials or services herein contracted for without the written approval of the Director, Office of Procurement.

5. CHANGES

The Director, Office of Procurement, may unilaterally change the work, materials and services to be performed. The change must be in writing and within the general scope of the contract. The contract will be modified to reflect any time or money adjustment the contractor is entitled to receive. Contractor must bring to the Contract Administrator, in writing, any claim about an adjustment in time or money resulting from a change, within 30 days from the date the Director, Office of Procurement, issued the change in work, or the claim is waived. Any failure to agree upon a time or money adjustment must be resolved under the "Disputes" clause of this contract. The contractor must proceed with the prosecution of the work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided in this section.

6. CONTRACT ADMINISTRATION

A. The contract administrator, subject to paragraph B below, is the Department representative designated by the Director, Office of Procurement, in writing and is authorized to:

- (1) serve as liaison between the County and Contractor;
- (2) give direction to the Contractor to ensure satisfactory and complete performance;
- (3) monitor and inspect the Contractor's performance to ensure acceptable timeliness and quality;
- (4) serve as records custodian for this contract, including wage requirements;
- (5) accept or reject the Contractor's performance;
- (6) furnish timely written notice of the contractor's performance failures to the Director, Office of Procurement and to the County Attorney, as appropriate;
- (7) prepare required reports;
- (8) approve or reject invoices for payment;
- (9) recommend contract modifications or terminations to the Director, Office of Procurement;
- (10) issue notices to proceed; and
- (11) monitor and verify compliance with any MFD Performance Plan.

B. The contract administrator is NOT authorized to make determinations (as opposed to recommendations) that alter, modify, terminate or cancel the contract, interpret ambiguities in contract language, or waive the County's contractual rights.

7. COST & PRICING DATA

Chapter 11B of the County Code and the Montgomery County Procurement Regulations require that cost & pricing data be obtained from proposed awardees/contractors in certain situations. The contractor guarantees that any cost & pricing data provided to the County will be accurate and complete. The contractor grants the Director, Office of Procurement, access to all books, records, documents, and other supporting data in order to permit adequate evaluation of the contractor's proposed price(s). The contractor also agrees that the price to the County, including profit or fee, may, at the option of the County, be reduced to the extent that the price was based on inaccurate, incomplete, or noncurrent data supplied by the contractor.

8. DISPUTES

Any dispute by Contractor arising under this contract that is not disposed of by agreement must be decided under the Montgomery County Code and the Montgomery County Procurement Regulations. Pending final resolution of a dispute, the Contractor must proceed diligently with contract performance. Subject to subsequent revocation or alteration by the Director, Office of Procurement, the head of the County department, office or agency ("Department Head") of the contract administrator is the designee of the Director, Office of Procurement, for the purpose of dispute resolution. The Department Head, or his/her designee, must forward to the Director, Office of Procurement, a copy of any written resolution of a dispute. The Department Head may, with the contractor's consent, delegate this responsibility to another person (other than the contract administrator). A contractor must notify, in writing, the contract administrator of a claim, and must attempt to resolve a claim with the contract administrator prior to filing a dispute with the Director, Office of Procurement. The contractor waives any dispute or claim not made in writing and received by the Director, Office of Procurement, within 30 days of the event giving rise to the dispute or claim, whether or not the contract administrator has responded to a written notice of claim or resolved the claim. The Director, Office of Procurement, must dismiss a dispute that is not timely filed. A dispute must be in writing, for specific relief, and any requested relief must be fully supported by affidavit of all relevant calculations, including cost and pricing information, records, and other information. At the County's option, the Contractor agrees to be made a party to any related dispute involving another contractor.

9. DOCUMENTS, MATERIALS AND DATA

All documents, materials or data developed as a result of this contract are the County's property. The County has the right to use and reproduce any documents, materials, and data, including confidential information, used in the performance of, or developed as a result of, this contract. The County may use this information for its own purposes, including reporting to state and federal agencies. The contractor warrants that it has title to or right of use of all documents, materials or data used or developed in connection with this contract. The Contractor must keep confidential all documents, materials, and data prepared or developed by the contractor or supplied by the County.

10. DURATION OF OBLIGATION

The contractor agrees that all of contractor's obligations and warranties, including all requirements imposed by the Minority Owned Business Addendum to these General Conditions, if any, which directly or indirectly are intended by their nature or by implication to survive contractor performance, do survive the completion of performance, termination for default, termination for convenience, or termination by mutual consent of the contract.

11. ENTIRE AGREEMENT

There are no promises, terms, conditions, or obligations other than those contained in this contract. This contract supersedes all communications, representations, or agreements, either verbal or written, between the parties hereto, with the exception of express warranties given to induce the County to enter into the contract.

12. ETHICS REQUIREMENTS/ POLITICAL CONTRIBUTIONS

The contractor must comply with the ethics provisions contained in Chapters 11B and 19A, Montgomery County Code, which include the following:

- (a) a prohibition against making or offering to make certain gifts. Section 11B-51(a).
- (b) a prohibition against kickbacks. Section 11B-51(b).
- (c) a prohibition against a person engaged in a procurement from employing or offering to employ a public employee. Section 11B-52 (a).
- (d) a prohibition against a contractor that is providing a recommendation to the County from assisting another party or seeking to obtain an economic benefit beyond payment under the contract. Section 11B-52 (b)
- (e) a restriction on the use of confidential information obtained in performing a contract. Section 11B-52 (c).
- (f) a prohibition against contingent fees. Section 11B-53.

Furthermore, the contractor specifically agrees to comply with County Code Sections 11B-51, 11B-52, 11B-53, 19A-12, and/or 19A-13.

In addition, the contractor must comply with the political contribution reporting requirements currently codified under Title 14 of the Election Law, Annotated Code of Maryland.

13. GUARANTEE

- A. Contractor guarantees for one year from acceptance, or for a longer period that is otherwise expressly stated in the County's written solicitation, all goods, services, and construction offered, including those used in the course of providing the goods, services, and/or construction. This includes a guarantee that all products offered (or used in the installation of those products) carry a guarantee against any and all defects for a minimum period of one year from acceptance, or for a longer period stated in the County's written solicitation. The contractor must correct any and all defects in material and/or workmanship that may appear during the guarantee period, or any defects that occur within one (1) year of acceptance even if discovered more than one (1) year after acceptance, by repairing, (or replacing with new items or new materials, if necessary) any such defect at no cost to the County and to the County's satisfaction.
- B. Should a manufacturer's or service provider's warranty or guarantee exceed the requirements stated above, that guarantee or warranty will be the primary one used in the case of defect. Copies of manufacturer's or service provider's warranties must be provided upon request.

- C. All warranties and guarantees must be in effect from the date of acceptance by the County of the goods, services, or construction.
- D. The contractor guarantees that all work shall be accomplished in a workmanlike manner, and the contractor must observe and comply with all Federal, State, County and local laws, ordinances and regulations in providing the goods, and performing the services or construction.
- E. Goods and materials provided under this contract must be of first quality, latest model and of current manufacture, and must not be of such age or so deteriorated as to impair their usefulness or safety. Items that are used, rebuilt, or demonstrator models are unacceptable, unless specifically requested by the County in the Specifications.

14. HAZARDOUS AND TOXIC SUBSTANCES

Manufacturers and distributors are required by federal "Hazard Communication" provisions (29 CFR 1910.1200), and the Maryland "Access to Information About Hazardous and Toxic Substances" Law, to label each hazardous material or chemical container, and to provide Material Safety Data Sheets to the purchaser. The contractor must comply with these laws and must provide the County with copies of all relevant documents, including Material Safety Data Sheets, prior to performance of work or contemporaneous with delivery of goods.

15. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLIANCE

In addition to the provisions stated above in Section 3. "Applicable Laws," contractor must comply with all requirements in the federal Health Insurance Portability and Accountability Act (HIPAA), to the extent that HIPAA is applicable to this contract. Furthermore, contractor must enter into the County's standard Business Associate Agreement when contractor or the County, as part of this contract, may use or disclose to one another, to the individual whose health information is at issue, or to a third-party, any protected health information that is obtained from, provided to, made available to, or created by, or for, the contractor or the County.

16. IMMIGRATION REFORM AND CONTROL ACT

The contractor warrants that both the contractor and its subcontractors do not, and shall not, hire, recruit or refer for a fee, for employment under this contract or any subcontract, an alien while knowing the alien is an unauthorized alien, or any individual without complying with the requirements of the federal Immigration and Nationality laws, including any verification and record keeping requirements. The contractor further assures the County that, in accordance with those laws, it does not, and will not, discriminate against an individual with respect to hiring, recruitment, or referral for a fee, of an individual for employment or the discharge of an individual from employment, because of the individual's national origin or, in the case of a citizen or prospective citizen, because of the individual's citizenship status.

17. INCONSISTENT PROVISIONS

Notwithstanding any provisions to the contrary in any contract terms or conditions supplied by the contractor, this General Conditions of Contract document supersedes the contractor's terms and conditions, in the event of any inconsistency.

18. INDEMNIFICATION

The contractor is responsible for any loss, personal injury, death and any other damage (including incidental and consequential) that may be done or suffered by reason of the contractor's negligence or failure to perform any contractual obligations. The contractor must indemnify and save the County harmless from any loss, cost, damage and other expenses, including attorney's fees and litigation expenses, suffered or incurred due to the contractor's negligence or failure to perform any of its contractual obligations. If requested by the County, the contractor must defend the County in any action or suit brought against the County arising out of the contractor's negligence, errors, acts or omissions under this contract. The negligence of any agent, subcontractor or employee of the contractor is deemed to be the negligence of the contractor. For the purposes of this paragraph, County includes its boards, agencies, agents, officials and employees.

19. INDEPENDENT CONTRACTOR

The contractor is an independent contractor. The contractor and the contractor's employees or agents are not agents of the County.

20. INSPECTIONS

The County has the right to monitor, inspect and evaluate or test all supplies, goods, services, or construction called for by the contract at all reasonable places (including the contractor's place of business) and times (including the period of preparation or manufacture).

21. INSURANCE

Prior to contract execution by the County, the proposed awardee/contractor must obtain at its own cost and expense the insurance specified in the applicable table (See Tables A and B) or attachment to these General Conditions, with one or more insurance company(ies) licensed or qualified to do business in the State of Maryland, and acceptable to the County's Division of Risk Management. Contractor must keep this insurance in full force and effect during the term of this contract, including all extensions. Unless expressly provided otherwise, Table A is applicable to this contract. The insurance must be evidenced by one or more Certificate(s) of Insurance and, if requested by the County, the proposed awardee/contractor must provide a copy of any and all insurance policies to the County. At a minimum, the proposed awardee/contractor must submit to the Director, Office of Procurement, one or more Certificate(s) of Insurance prior to award of this contract, and prior to any contract modification extending the term of the contract, as evidence of compliance with this provision. The contractor's insurance must be primary. Montgomery County, MD, including its officials, employees, agents, boards, and agencies, must be named as an additional insured on all liability policies. Forty-five days written notice to the County of cancellation or material change in any of the policies is required. In no event may the insurance coverage be less than that shown on the applicable table, attachment, or contract provision for required insurance. The Director, Office of Procurement, may waive the requirements of this section, in whole or in part.

22. INTELLECTUAL PROPERTY APPROVAL AND INDEMNIFICATION - INFRINGEMENT

If contractor will be preparing, displaying, publicly performing, reproducing, or otherwise using, in any manner or form, any information, document, or material that is subject to a copyright, trademark, patent, or other property or privacy right, then contractor must: obtain all necessary licenses, authorizations, and approvals related to its use; include the County in any approval, authorization, or license related to its use; and indemnify and hold harmless the County related to contractor's alleged infringing or otherwise improper or unauthorized use. Accordingly, the contractor must protect, indemnify, and hold harmless the County from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions, and attorneys' fees and the costs of the defense of the County, in any suit, including appeals, based upon or arising out of any allegation of infringement, violation, unauthorized use, or conversion of any patent, copyright, trademark or trade name, license, proprietary right, or other related property or privacy interest in connection with, or as a result of, this contract or the performance by the contractor of any of its activities or obligations under this contract.

23. NON-CONVICTION OF BRIBERY

The contractor hereby declares and affirms that, to its best knowledge, none of its officers, directors, or partners or employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery, or conspiracy to bribe under any federal, state, or local law.

24. NON-DISCRIMINATION IN EMPLOYMENT

The contractor agrees to comply with the non-discrimination in employment policies and/ or provisions prohibiting unlawful employment practices in County contracts as required by Section 11B-33 and Section 27-19 of the Montgomery County Code, as well as all other applicable state and federal laws and regulations regarding employment discrimination.

The contractor assures the County that, in accordance with applicable law, it does not, and agrees that it will not, discriminate in any manner on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, or sexual orientation.

The contractor must bind its subcontractors to the provisions of this section.

TABLE A. - INSURANCE REQUIREMENTS
(See Paragraph #21 Under the General Conditions of Contract Between County and Contractor)

	<u>CONTRACT DOLLAR VALUES (IN \$1,000's)</u>			
	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>
Workers Compensation (for contractors with employees)				
Bodily Injury by				
Accident (each)	100	100	100	See
Disease (policy limits)	500	500	500	Attachment
Disease (each employee)	100	100	100	
Commercial General Liability				
minimum combined single limit for bodily injury and property damage per occurrence, including contractual liability, premises and operations, and independent contractors	300	500	1,000	See Attachment
Minimum Automobile Liability				
(including owned, hired and non-owned automobiles)				
Bodily Injury				
each person	100	250	500	See
each occurrence	300	500	1,000	Attachment
Property Damage				
each occurrence	300	300	300	
Professional Liability*				
for errors, omissions and negligent acts, per claim and aggregate, with one year discovery period and maximum deductible of \$25,000	250	500	1,000	See Attachment

Certificate Holder
Montgomery County Maryland (Contract #)
Office of Procurement
Rockville Center
255 Rockville Pike, Suite 180
Rockville, Maryland 20850-4166

*Professional services contracts only

[Remainder of Page Intentionally Left Blank]

TABLE B. - INSURANCE REQUIREMENTS
(See Paragraph #21 Under the General Conditions of Contract Between County and Contractor)

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>
Commercial General Liability minimum combined single limit for bodily injury and property damage per occurrence, including contractual liability, premises and operations, independent contractors, and product liability	300	500	1,000	See Attachment

Certificate Holder

Montgomery County Maryland (Contract #)
Office of Procurement
Rockville Center
255 Rockville Pike, Suite 180
Rockville, Maryland 20850-4166

25. PAYMENTS

No payment by the County may be made, or is due, under this contract, unless funds for the payment have been appropriated and encumbered by the County. Under no circumstances will the County pay the contractor for legal fees. The contractor must not proceed to perform any work (provide goods, services, or construction) prior to receiving written confirmation that the County has appropriated and encumbered funds for that work. If the contractor fails to obtain this verification from the Office of Procurement prior to performing work, the County has no obligation to pay the contractor for the work.

If this contract provides for an additional contract term for contractor performance beyond its initial term, continuation of contractor's performance under this contract beyond the initial term is contingent upon, and subject to, the appropriation of funds and encumbrance of those appropriated funds for payments under this contract. If funds are not appropriated and encumbered to support continued contractor performance in a subsequent fiscal period, contractor's performance must end without further notice from, or cost to, the County. The contractor acknowledges that the County Executive has no obligation to recommend, and the County Council has no obligation to appropriate, funds for this contract in subsequent fiscal years. Furthermore, the County has no obligation to encumber funds to this contract in subsequent fiscal years, even if appropriated funds may be available. Accordingly, for each subsequent contract term, the contractor must not undertake any performance under this contract until the contractor receives a purchase order or contract amendment from the County that authorizes the contractor to perform work for the next contract term.

26. PERSONAL PROPERTY

All furniture, office equipment, equipment, vehicles, and other similar types of personal property specified in the contract, and purchased with funds provided under the contract, become the property of the County upon the end of the contract term, or upon termination or expiration of this contract, unless expressly stated otherwise.

27. TERMINATION FOR DEFAULT

The Director, Office of Procurement, may terminate the contract in whole or in part, and from time to time, whenever the Director, Office of Procurement, determines that the contractor is:

- (a) defaulting in performance or is not complying with any provision of this contract;
- (b) failing to make satisfactory progress in the prosecution of the contract; or
- (c) endangering the performance of this contract.

The Director, Office of Procurement, will provide the contractor with a written notice to cure the default. The termination for default is effective on the date specified in the County's written notice. However, if the County determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the County may terminate the contract immediately upon issuing oral or written notice to the contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or the contract, the contractor must compensate the County for additional costs that foreseeably would be incurred by the County, whether the costs are actually incurred or not, to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.

28. TERMINATION FOR CONVENIENCE

This contract may be terminated by the County, in whole or in part, upon written notice to the contractor, when the County determines this to be in its best interest. The termination for convenience is effective on the date specified in the County's written notice. Termination for convenience may entitle the contractor to payment for reasonable costs allocable to the contract for work or costs incurred by the contractor up to the date of termination. The contractor must not be paid compensation as a result of a termination for convenience that exceeds the amount encumbered to pay for work to be performed under the contract.

29. TIME

Time is of the essence.

30. WORK UNDER THE CONTRACT

Work may not commence under this contract until all conditions for commencement are met, including execution of the contract by both parties, compliance with insurance requirements, encumbrance of funds, and issuance of any required notice to proceed.

THIS FORM MAY NOT BE MODIFIED WITHOUT THE PRIOR APPROVAL OF THE OFFICE OF THE COUNTY ATTORNEY.

PMMD-45. REVISED 1/18/08

ATTACHMENT C

Minority-Owned Business Addendum to General Conditions of Contract Between County and Contractor

- A. This contract is subject to the Montgomery County Code and the Montgomery County Procurement Regulations regarding participation in the Minority-Female-Disabled Person (MFD) procurement program.
- B. Contractor must subcontract a percentage of the total dollar value of the contract, including all modifications and renewals, to certified minority owned businesses. The MFD subcontracting goal may be waived under appropriate circumstances by submission of a letter to the Minority Procurement Officer. The letter must explain why a waiver is appropriate. The Director, Department of General Services or designee may waive, in whole or in part, the MFD subcontracting goal if the Director determines that a waiver is appropriate under Section 7.3.3.5 of the Montgomery County Procurement Regulations. In determining if a waiver should be granted, the Director may require the Contractor to submit additional information; the Director may require the Contractor to submit some or all of this information on forms approved by the Director.
- C. The attached MFD Subcontractor Performance Plan, which must be approved by the Director, is an integral part of the contract between County and Contractor. In a multi-term contract, Contractor must submit a MFD Subcontract Performance Plan to be in effect for the life of the contract, including any renewal or modification.
- D. Contractor must include in each subcontract with a minority owned business a provision that requires the use of binding arbitration with a neutral arbitrator to resolve disputes between the Contractor and the minority owned business subcontractor. This arbitration provision must describe how the cost of dispute resolution will be apportioned; the apportionment must not, in the judgment of the Director, attempt to penalize a minority owned business subcontractor for filing an arbitration claim.
- E. County approval of the MFD Subcontractor Performance Plan does not create a contractual relationship between the County and the minority owned business subcontractor.
- F. Contractor must notify and obtain prior written approval from the Director regarding any change in the MFD Subcontractor Performance Plan.
- G. Before receiving final payment under this contract, Contractor must submit documentation showing compliance with the MFD Subcontracting Performance Plan. Documentation may include, at the direction of the Director, invoices, copies of subcontracts with minority owned businesses, cancelled checks, affidavits executed by minority owned business subcontractors, waivers, and arbitration decisions. The Director may require Contractor to submit periodic reports on a form approved by the Director. The Director may conduct an on-site inspection for the purpose of determining compliance with the MFD Subcontractor Performance Plan. If this is a multi-term contract, final payment means the final payment due for performance rendered for each term of the contract.
- H. If the Contractor fails to submit documentation demonstrating compliance with the MFD Subcontractor Performance Plan, to the satisfaction of the Director, after considering relevant waivers and arbitration decisions, the Contractor is in breach of this contract. In the event of a breach of contract under this addendum, the Contractor must pay to the County liquidated damages equal to the difference between all amounts the Contractor has agreed under its Plan to pay minority owned business subcontractors and all amounts actually paid minority owned business subcontractors with appropriate credit given for any relevant waiver or arbitration decision. Contractor and County acknowledge that damages which would result to the County as a result of a breach under this addendum are difficult to ascertain, and that the liquidated damages provided for in this addendum are fair and reasonable in estimating the damage to the County of a breach of this addendum by Contractor. In addition, the County may terminate the contract. As the result of a breach under this addendum, The Director, Department of General Services must find the Contractor non-responsible for purposes of future procurement with the County for the ensuing three years.
-

**MINORITY, FEMALE, DISABLED PERSON SUBCONTRACTOR
PERFORMANCE PLAN**

Contractors
Name: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone Number: _____

Fax Number: _____

Email: _____

CONTRACT NUMBER/PROJECT DESCRIPTION: _____

A. Individual designated by Contractor to monitor Contractor's compliance with MFD Subcontractor Performance Plan:

Name: _____

Title: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone Number: _____

Fax Number: _____

Email: _____

B. This Plan covers life of the contract from contract execution through final contract expiration date.

A. The percentage of total contract dollars, including modifications and renewals, to be paid to all certified minority owned business subcontractors, is _____% of the total dollars awarded to Contractor.

B. Each of the following certified minority owned businesses will be paid the percentage of total contract dollars indicated below as a subcontractor under the contract.

All listed MFD subcontractors are required to be Maryland Department of Transportation (MDOT) certified. For assistance, please call (240) 777-9912.

I hereby certify that the business(s) listed below are Maryland Department of Transportation (MDOT) certified.

1. Certified Minority Owned

Business Subcontractor Name: _____

Title: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone Number: _____

Fax Number: _____

Email: _____

CONTACT PERSON: _____

MDOT Certification Number: _____

Attach your MDOT certification letter.

Circle MFD Type:

AFRICAN AMERICAN
FEMALE

ASIAN AMERICAN
HISPANIC AMERICAN

DISABLED PERSON
NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor is _____

This subcontractor will provide the following goods and/or services: _____

2. Certified Minority Owned

Business Subcontractor Name: _____

Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Fax Number: _____ Email: _____

CONTACT PERSON: _____

MDOT Certification Number: _____

Attach your MDOT certification letter.

Circle MFD Type:

AFRICAN AMERICAN
FEMALE

ASIAN AMERICAN
HISPANIC AMERICAN

DISABLED PERSON
NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor is _____

This subcontractor will provide the following goods and/or services: _____

3. Certified Minority Owned

Business Subcontractor Name: _____

Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Fax Number: _____ Email: _____

CONTACT PERSON: _____

MDOT Certification Number: _____

Attach your MDOT certification letter.

Circle MFD Type:

AFRICAN AMERICAN
FEMALE

ASIAN AMERICAN
HISPANIC AMERICAN

DISABLED PERSON
NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor is _____

This subcontractor will provide the following goods and/or services: _____

4. Certified Minority Owned
Business Subcontractor Name: _____

Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Fax Number: _____ Email: _____

CONTACT PERSON: _____

MDOT Certification Number: _____

Attach your MDOT certification letter.

Circle MFD Type:

AFRICAN AMERICAN

ASIAN AMERICAN

DISABLED PERSON

FEMALE

HISPANIC AMERICAN

NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor is _____

This subcontractor will provide the following goods and/or services: _____

E. The following language will be inserted in each subcontract with a certified minority owned business listed in D above, regarding the use of binding arbitration with a neutral arbitrator to resolve disputes with the minority owned business subcontractor; the language must describe how the costs of dispute resolution will be apportioned:

F. The Contractor applies for the following full or partial waiver; specify the basis for the waiver request:

Full Waiver Approved:

Partial Waiver Approved:

Minority Procurement Officer

Date: _____

Minority Procurement Officer

Date: _____

Full Waiver Approved:

Partial Waiver Approved:

Director Office of Procurement

Date: _____

Director Office of Procurement

Date: _____

The Contractor submits this MFD Subcontractor Performance Plan (Plan Modification No. _____) in accordance with the Minority Owned Business Addendum to General Conditions of Contract between County and Contractor.

CONTRACTOR SIGNATURE

USE ONE:

1. TYPE CONTRACTOR'S NAME: _____

Signature

Typed Name

Date

2. TYPE CORPORATE CONTRACTOR'S NAME: _____

Signature

Typed Name

Date

I hereby affirm that the above named person is a corporate officer or a designee empowered to sign contractual agreements for the corporation.

Signature

Typed Name

Title

Date

APPROVED:

Director, Office of Procurement

Date

7.3.3.4(a) of the Procurement Regulations requires:
The contract between the Contractor and the County requires the Contractor to notify the Director, Office of Procurement of any proposed change to the Subcontractor Performance Plan.

ATTACHMENT D
Wage Requirements for Services Contract Addendum
to the General Conditions of Contract Between County and Contractor

- A. This contract is subject to the wage requirements of Section 11B-33A of the Montgomery County Code. A County contract for the procurement of services must require the contractor and any of its subcontractors to comply with the wage requirements of this Section, subject to exceptions from coverage for particular contractors noted in 11B-33A(b) and for particular employees noted in 11B-33A(f).
- B. Conflicting requirements (11B-33A(g)): If any federal, state, or County law or regulation requires payment of a higher wage, that law or regulation controls. If any applicable collective bargaining agreement requires payment of a higher wage, that agreement controls.
- C. Nonprofit organizations who are exempt from the wage requirements under 11B-33A must specify the wage the organization intends to pay to those employees who will perform direct, measurable work under the contract, and any health insurance the organization intends to provide to those employees.
- D. A contractor must not split or subdivide a contract, pay an employee through a third party, or treat an employee as a subcontractor or independent contractor, to avoid the imposition of any requirements in 11B-33A.
- E. Each contractor and subcontractor covered under 11B-33A must: certify that it is aware of and will comply with the applicable wage requirements; keep and submit any verifiable records necessary to show compliance; and conspicuously post notices informing employees of the wage requirements, and send a copy of each such notice to the County's Director of Procurement.
- F. An employer must comply with Section 11B-33A during the initial term of the contract and all subsequent renewal periods and must pay an increase adjustment in this wage rate, if any, automatically effective July 1 of each year. The County will adjust the wage rate by the annual average increase in the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or successor index, for the previous calendar year and must calculate the adjustment to the nearest multiple of 5 cents.
- G. An employer must not discharge or otherwise retaliate against an employee for asserting any right or filing a complaint of a violation, under the wage requirements.
- H. The sanctions under Section 11B-33(b), that apply to noncompliance with nondiscrimination requirements, apply with equal force and scope to noncompliance with the wage requirements under 11B-33A.
- I. The County may assess liquidated damages for any noncompliance by contractor with the Section 11B-33A wage requirements at the rate of 1% per day of the total contract amount, or for a requirements contract, the estimated annual contract value, for each day of the violation. This liquidated damages amount includes the amount of any unpaid wages, with interest. In the event of a breach of contract under this paragraph, the Contractor must pay to the County liquidated damages noted above, in addition to any other remedies available to the County. Contractor and County acknowledge that damages that would result to the County as a result of a breach under this paragraph are difficult to ascertain, and that the liquidated damages provided for in this paragraph are fair and reasonable in estimating the damage to the County resulting from a breach of this paragraph by Contractor. In addition, the contractor is jointly and severally liable for any noncompliance by a subcontractor. Furthermore, Contractor agrees that an aggrieved employee, as a third-party beneficiary, may by civil action enforce the payment of wages due under the Section 11B-33A wage requirements and recover from Contractor any unpaid wages with interest, a reasonable attorney's fee, and damages for any retaliation for asserting any right or claim under the 11B-33A wage requirements.
- J. The Director may conduct random audits to assure compliance with Section 11B-33A. The Director may conduct an on-site inspection(s) for the purpose of determining compliance.
- K. If the Contractor fails, upon request by the Director, to submit documentation demonstrating compliance with Section 11B-33A to the satisfaction of the Director, the Contractor is in breach of this contract. In the event of a breach of contract under this paragraph, the Contractor must pay to the County liquidated damages noted in paragraph I. above, in addition to any other remedies available to the County. Contractor and County acknowledge that damages that would result to the County as a result of a breach under this paragraph are difficult to ascertain, and that the liquidated damages provided for in this paragraph are fair and reasonable in estimating the damage to the County resulting from a breach of this paragraph by Contractor.

Wage Requirements Certification

(Montgomery County Code, Section 11B-33A)

Business Name					
Address					
City		State		Zip Code	
Phone Number		Fax Number			
E-Mail Address					

Please provide in the spaces below the contact name and information of the individual designated by your firm to monitor your compliance with the County's wage requirements, unless exempt under Section 11B-33A (b) (see section B. below):

Contact Name		Title	
Phone Number		Fax Number	
E-mail Address			

YOU MUST MARK ☒ ALL BOXES BELOW that apply in the event that you, as an "Offeror," are awarded the contract and become a "Contractor":

☐ A. Wage Requirements Compliance

This Contractor as a "covered employer" will comply with the requirements under Section 11B-33A, Wage Requirements. Contractor and its subcontractors will pay all employees not exempt under the wage requirements, and who perform direct measurable work for the County, the wage requirements effective at the time the work is performed. The bid price(s) submitted under this solicitation include(s) sufficient funds to meet the wage requirements. A "covered employer" must quarterly (January, April, July and October for the prior quarter) submit certified payroll records for all employees, and any subcontractor employees, governed by the Wage Requirements Law, for each payroll period to the Office of Procurement, Attn: Wage Program Manager. These payroll records must include the following: name; address; position/title; daily straight time hours worked; daily overtime hours worked; straight time hourly pay rate; overtime hourly pay rate; any deduction for health insurance; total gross wages paid for each period; and total net wages paid after any additions and deductions for each pay period.

☐ B. Exemption Status (if applicable)

This Contractor is exempt from 11B-33A, "Wage Requirements," because it is:

- ☐ 1. a contractor who employs fewer than 10 employees when the contractor submits a bid or proposal, and will continue to be exempt as long as contractor does not employ 10 or more employees at any time the contract is in effect as a result of performing the contract. Section 11B-33A (b) (1).
- ☐ 2. a contractor who, at the time a contract is signed: has received less than \$50,000 from the County in the most recent 12-month period; and will be entitled to receive less than \$50,000 from the County under that contract in the next 12-month period. Section 11B-33A (b) (2).
- ☐ 3. a contract with a public entity. Section 11B-33A (b) (3).
- ☐ 4. a contract with a nonprofit organization that has qualified for an exemption from federal income taxes under Section 501(c) (3) of the Internal Revenue Code. Section 11B-33A (b) (4) (must complete item C below).
- ☐ 5. an employer to the extent that the employer is expressly precluded from complying with this Section by the terms of any federal or state law, contract, or grant. Section 11B-33A (b) (8) (must specify the law, or furnish a copy of the contract or grant).

IFB # Error! No text of specified style in document.

☐ C. Nonprofit Wage & Health Information

This Contractor is a Nonprofit organization that is exempt from coverage under Section 11B-33A b) (4). Accordingly, the contractor has completed the 501(c) (3) Nonprofit Organization's Employee's Wage and Health Insurance Form which is attached. See Section 11B-33A(c) (2).

☐ D. Nonprofit's Comparison Price(s) (if desired)

This Contractor is a Nonprofit organization that is opting to pay its covered employees the hourly rate specified in the wage requirements. Accordingly, Contractor is duplicating the blank quotation sheet on which it is submitting its price(s) in the IFB, and is submitting on this duplicate form its price(s) to the County had it not opted to pay its employees the hourly rate specified in the wage requirements. For bid evaluation purposes, this price(s) will be compared to price(s) of another Nonprofit organization(s) that is paying its employees an amount consistent with its exemption from paying the hourly rate under the wage requirements. This revised information on the duplicate quotation sheet must be clearly marked as your Nonprofit organization comparison price(s). In order to compare your price(s), the revised information on the duplicate quotation sheet must be submitted with your bid, must show how the difference between your price(s) and your Nonprofit organization comparison price(s) was calculated, and will not be accepted after the bid opening date. See Section 11B-33A(c) (2).

☐ E. Wage Requirements Reduction (if applicable)

This Contractor is a "covered employer", and it desires to reduce its hourly rate paid under the wage requirements by an amount equal to, or less than, the per employee hourly cost of the employer's share of the health insurance premium. Contractor certifies that the per employee hourly cost of the employer's share of the premium for that insurance is: \$ _____. See Section 11B-33A(d).

Contractor Certification

CONTRACTOR SIGNATURE: Contractor submits this certification form in accordance with Section 11B-33A of the Montgomery County Code. Contractor certifies that it, and any and all of its subcontractors that perform services under the resultant contract with the County, adheres to Section 11B-33A of the Montgomery County Code.

Authorized Signature		Title of Authorized Person	
Typed or printed name		Date	<input type="checkbox"/>

501(c) (3) Nonprofit Organization's Employee's Wage and Health Insurance Form

Business Name					
Address					
City		State		Zip Code	
Phone Number		Fax Number			
E-Mail Address					

Please provide below the employee labor category of all employee(s) who will perform direct measurable work under this contract, the hourly wage the organization pays for that employee labor category, and any health insurance the organization intends to provide for that employee labor category:

Employee Labor Category	Wage per Hour	Name of Health Insurance Provider(s) and Plan Name* (e.g. ABC Insurer, Inc. , HMO Medical and Dental)

NOTE: IF NO HEALTH INSURANCE PLAN IS PROVIDED PLEASE STATE "NONE".

Street Sweeping Routes

Priority Routes (DEP)

Routes	Curb Miles	Ton Miles	Completed Dates	Cost
48	11.54	11.54	7/14/2008	\$842.42
9	39.29	7.73	7/14/2008	\$2,868.17
24	50.03	9.72	7/15/2008	\$3,652.19
20	103.48	6.54	7/17/2008	\$7,554.04
10	17.04	1.04	7/18/2008	\$1,243.92
53	33.25	4.60	7/21/2008	\$2,427.25
5	34.15	2.91	7/22/2008	\$2,492.95
7	33.38	3.80	7/23/2008	\$2,436.74
29	45.87	5.32	7/22/2008	\$3,348.51
13	85.2	2.45	7/24/2008	\$6,219.60
21	82.58	3.00	8/1/2008	\$6,028.34
6	100.12	6.58	8/1/2008	\$7,308.76
26	46.34	6.58	8/1/2008	\$3,382.82
30	52.15	10.23	8/1/2008	\$3,806.95
14	142.88	10.52	8/12/2008	\$10,430.24
19	61.7	11.73	8/15/2008	\$4,504.10
3	113.46	7.55	8/21/2008	\$8,282.58
22	88.18	11.83	8/22/2008	\$6,437.41
2	105.25	20	9/5/2008	\$7,683.25
(2) Cycle	1245.89	143.67		\$90,949.97
(1) Cycle	1245.89	311.01		\$90,949.97
Total	2491.78	454.68		\$ 181,899.94
(Arterial 4 (1)	39.88	32.00	3/24/2008	\$ 1,455.62
4 (2)	39.88	14.00	4/30/2008	\$ 1,455.62
4 (3)	39.88	18.25	5/29/2008	\$ 1,455.62
4 (4)	39.88	18.00	6/24/2008	\$ 1,455.32
4 (5)	39.88	12.8	7/30/2008	\$ 1,455.32
4 (6)	39.88	13	8/27/2008	\$ 1,455.32
Total				

--	--	--	--	--